



## **ASA RULES & REGULATIONS ON HARASSMENT**

### **Purpose**

The ASA does not tolerate or condone any degree of harassment by anyone associated with the ASA. It is the responsibility of the ASA, its staff and its Board of Directors; its members; the team officials, referees, and parents of players registered with the ASA; and all volunteers associated with the ASA, to promote a harassment free sport environment.

The ASA is committed to investigating reported incidents of harassment in a prompt, objective, and sensitive manner, taking necessary corrective action and providing appropriate support for individuals that have been adversely affected by harassment.

### **Non-Application of the Rules & Regulations**

1. The ASA will not commence or continue its investigation should evidence be presented that a higher authority has been asked to review the case, such higher authority including:
  - (a) enforcement services (municipal police, RCMP, etc);
  - (b) the Alberta Human Rights Commission, and
  - (c) Courts of the Province of Alberta.
  
2. The ASA will advise complainants of their right to refer any case to a higher authority should the ASA feel that a higher level of expertise is needed given the nature of the complaint

Examples of these cases include, but are not restricted to:

- (a) any complaint sexual in nature, and
- (b) any type of physical abuse.



## **Harassment Defined**

Harassment can take many forms but generally involves conduct, comment or display that is insulting, intimidating, humiliating, hurtful, demeaning, belittling, malicious, degrading or otherwise causes offence, discomfort or personal humiliation or embarrassment to a person or group of persons;

The test to determine whether harassment has occurred is three-fold:

1. whether a reasonable person knew or ought to have known that a behaviour would be considered unwelcome or offensive by the recipient;
2. the recipient found the behavior offensive; and
3. there is a connection between the behaviour and the mandate of the ASA.

## **Delegation of Authority**

The ASA Board of Directors or its Executive Director shall appoint as they deem appropriate from time to time, a minimum of two Harassment Officers who will work with the ASA Executive Director on the implementation of these Rules & Regulations.

If the behaviour complained about is the behavior of the Executive Director, the President of the ASA shall act in the place of the Executive Director.

If the Executive Director is for any other reason unable to act in these Rules & Regulations, he may delegate that function to another member of the ASA staff; and in the absence of such delegation the President shall so act, including delegating that function to another member of the ASA staff.

## **Confidentiality**

The ASA recognizes the sensitive and serious nature of harassment and will strive to keep all matters relating to a complaint confidential.



## **Complaint Procedure**

### **1. Making a Complaint**

A complaint shall be made by the complainant to the Executive Director in writing setting out:

- (a) the complainant's name, contact telephone number and contact email address "email address");
- (b) the name of the alleged harasser(s);
- (c) the time and place of the alleged harassment;
- (d) the events leading up to the alleged harassment;
- (e) the details of the alleged harassment; and
- (f) the names (and if possible the contact information) of any witnesses to the alleged harassment.

The complainant may submit other written evidence relating to the complaint.

### **2. Complaint Review**

The Executive Director shall within 30 days review the complaint and any submitted other evidence relating to the complaint, and may interview the complainant, to determine whether the behaviour complained of meets the test of harassment as defined in these Rules & Regulations.

If the Executive Director concludes that the behaviour complained of does not meet the test of harassment as defined, the Executive Director shall so advise the complainant in writing addressed to the complainant at the complainant's email address within that 30 day period, and provide the complainant with a copy of the Rules & Regulations.

The complainant shall have 15 days from the date that email was sent, to request, in writing by email addressed to the Executive Director, a Complaint Investigation whereupon the Executive Director shall within 7 days refer the matter to a Harassment Officer for investigation.

If the Executive Director concludes that the behaviour complained of does meet the test of harassment as defined, he may in his own discretion refer the matter to a Harassment Officer for a Complaint Investigation.



### **3. Complaint Investigation (“Investigation”)**

A Harassment Officer upon receiving a referred complaint as noted above, shall interview and receive evidence from the complainant; the person(s) whose behaviour is being complained about (“respondent”); any witness identified by the complainant or the respondent as a witness; and any other person the Harassment Officer considers may have relevant evidence.

Upon the conclusion of the Investigation, the Harassment Officer shall prepare a written Complaint Investigation Report (“Report”), which shall:

1. outline the findings made by the Harassment Officer as to whether the behaviour complained of, or other behaviour found by the Harassment Officer, is
  - a. substantiated on a balance of probabilities, and
  - b. meets the test of harassment as defined in these Rules & Regulations;and
2. the reasons for those findings.

The Harassment Officer may include in the Report any recommended resolutions or sanctions if harassment is so found.

The Harassment Officer shall then forthwith provide the Executive Director, the complainant and the respondent a copy of the Report, at their email addresses.

At any time before the Report is delivered, the Harassment Officer may, with the consent of the complainant and the respondent, refer the matter to Formal Mediation as described in these Rules & Regulations or conduct an informal mediation himself/herself.

In the event the matter is referred to Formal Mediation, the Investigation is suspended until the Formal Mediation has concluded.

Both the complainant and the respondent shall have 15 days from the date the Report was sent to them, in writing by email addressed to the Executive Director, to request a Harassment Hearing

Where there has been such a request for a Harassment Hearing, the Executive Director shall within 21 days refer the matter to a Harassment Hearing.



Where there has been no such request and the Report does find harassment, the Report shall be kept by the ASA for a period of 12 years.

#### **4. Harassment Hearing**

A Harassment Hearing (“Hearing”) shall be conducted by a panel (“Panel”) of three independent persons, including its chairperson, all appointed by the Executive Director, before which shall be placed the Report.

The Hearing procedure shall be as follows.

- (a) The time and place of the Hearing shall be set by the Executive Director, in consultation with the Harassment Officer and the Panel.
- (b) Notice of the time and place of the Hearing shall be provided to the complainant and the respondent (“the parties”) no later than 21 days before the commencement of the Hearing.
- (c) The Hearing may be adjourned at any time by the Panel on its own motion, but on motion by one of the parties only with the consent of the other.
- (d) The parties may attend in person, by counsel or by agent.
- (e) If the complainant fails to appear, the complaint will be dismissed
- (f) If the respondent fails to appear, the Hearing will proceed in the respondent’s absence.
- (g) The Hearing shall be conducted in camera.
- (h) The parties may call evidence, which will not be taken under oath.
- (i) The Panel may recommend that the ASA pay the reasonable travel costs (limited to mileage and necessary accommodation) of one or both parties and a witness or witnesses.
- (j) The Panel shall prepare no later than 30 days from the conclusion of the presentation of evidence at the Hearing, a written Harassment Hearing Decision (“Decision”), which shall:
  - i. outline the findings made by the Panel as to whether the behaviour complained of, or other behaviour found by the Panel, is
    - substantiated on a balance of probabilities, and
    - meets the test of harassment as defined in these Rules & Regulations; and



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- ii the reasons for those findings.
- (k) The Panel shall then forthwith provide the Executive Director, the complainant and the respondent a copy of the Decision, at their email addresses.
- (l) If the Panel concludes on a balance of probabilities that the complained of or other behavior does meet the test of harassment, it may impose any one or more of the following sanctions, which shall be included in the Decision:
  - i. a verbal apology, acceptable to the Panel;
  - ii. a written apology, acceptable to the Panel;
  - iii. a reprimand;
  - iv. a fine, not to exceed \$200.00 payable to the ASA, in default of payment of which, within the time set by the Panel, all the respondent's rights and privileges with the ASA will be suspended; and
  - v. removal of such ASA membership rights and privileges as may be determined by the Panel for such time as may be determined by the Panel.
- (m) The Panel may make further recommendations to the Executive Director which in its opinion are consistent with and would further the goals of these Rules & Regulations
- (n) Subject to judicial review, any finding by the Panel, including sanctions, is full and final

Where the Decision does find harassment, the Decision shall be kept by the ASA for a period of 12 years.



## 5. Formal Mediation

Any Formal Mediation (“Mediation”) shall be conducted by a Harassment Officer (“Mediator”) appointed by the Executive Director; but unless that person is appointed with the consent of both the complainant and the respondent (“the parties”) that person shall be a Harassment Officer other than the Harassment Officer who conducted the Investigation.

The Mediation procedure shall be as follows.

- (a) The time and place of the Mediation shall be set by the Mediator, with the consent of the parties.
- (b) The parties may be accompanied by counsel or an agent.
- (c) The Mediation shall be conducted in camera.
- (d) Anything said at the mediation is and shall remain confidential, unless the parties otherwise agree in writing at the conclusion of the Mediation.
- (e) The Mediation may be adjourned at any time with the consent of the parties and the Mediator.
- (f) The Mediation shall be terminated upon the request of either party.
- (g) The Mediator may terminate the Mediation upon the Mediator concluding that there is no reasonable prospect of the Mediation being successful.
- (h) If the Mediation is terminated without a successful resolution of the complaint, the Investigation shall continue. If the Mediator is a person other than the Harassment Officer conducting the Investigation, the Mediator shall forthwith report that fact to the Harassment Officer conducting the Investigation.
- (i) If the Mediation successfully resolves the complaint, the Investigation shall cease.

Where the Mediation successfully resolves the complaint, if one of the terms of the resolution is that there be kept a written record of that resolution, such written resolution shall be kept by the ASA according to its terms.